REMARKS

In the outstanding official action, claims 1-6, 9 and 11 were rejected under 35 USC 103(a) as being unpatentable over McBride et al in view of Ticknor et al, with dependent claims 7, 8 and 9 being rejected under §103(a) as unpatentable over the foregoing references and further in view of the three cited secondary references, all for the reasons of record.

In response, independent claim 1 is herewith amended in order to more particularly and precisely recite the novel and unobvious features of the instant invention, and it is respectfully submitted that amendment claim 1, and the remaining claims depending therefrom, are now clearly patentably distinguishable over the cited and applied references for the reasons detailed below.

In the Action, it was suggested that McBride discloses an optical switchable element similar to that claimed, but admittedly fails to specifically disclose that at least one of the first and second bodies of fluid comprises a surfactant. However, this deficiency was suggested to be overcome by Ticknor, which was suggested to disclose a similar optical switchable element with two different liquids in a chamber and one of the liquids further comprising a surfactant for controlling desired properties of the fluid.

More particularly, however, the cited portion of Ticknor [0084] merely contains a general teaching that various properties

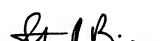
of a liquid may be controlled by adding soluble materials such as a surfactant or a salt. In this regard it is also noted that Ticknor is a very large reference, containing 59 figures, many with multiple views, and 233 paragraphs of text, showing and disclosing a multitude of fluids, soluble materials, suspended microscopic solid particles and the like, as well as mixtures of these various materials, that may be employed.

In order to more clearly and precisely define and distinguish the instant invention, claim 1 is herewith amended to more precisely recite that the electrodes are arranged to control spatial distribution of the first and second liquids upon the application of a voltage between the electrodes, and that a surfactant is provided for the specific purpose of affecting surface tension to lower the magnitude of the voltage required to control the switchable element. It is respectfully submitted that the broad and general teaching in Ticknor that numerous different fluids, soluble materials, particulates and the like may be added for the purpose of controlling various properties does not overcome the admitted deficiency of the McBride reference, since the inventive feature of the instant application, as now more particularly and precisely recited, is not shown or suggested. Specifically, Ticknor no where recognizes, shows or suggests the discovery that a surfactant can be added for the specific purpose of affecting surface tension to lower the magnitude of the voltage

required to control the switchable element. Absent such a recognition, and absent the benefit of impermissible hindsight derived from the instant disclosure, there is no way that one of ordinary skill in the art would find the instant invention to be obvious absent impermissible undue experimentation. Furthermore, since the cited and applied references neither show nor suggest the fundamental principle of the instant invention as now more precisely claimed, in accordance with the disclosure on pages 3 and 5 of the instant application, there would be no motivation whatsoever for employing a surfactant to lower the magnitude of voltage required to control the switchable element as in the instant invention.

In view of the foregoing, it is respectfully submitted that independent claim 1, as herewith amended, and the remaining claims depending therefrom, are clearly patentably distinguishable over the cited and applied references. Accordingly, allowance of the instant application is respectfully submitted to be justified at the present time, and favorable consideration is earnestly solicited.

Respectfully submitted,

By 

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